

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

KELLEN PAUL WARD,

Defendant.

NO. CR-05-0051-EFS

ORDER DECLARING MISTRIAL

This matter came on for jury trial on July 20, 2005, and concluded on July 22, 2005, when the Court declared a mistrial on all counts of the Indictment. The Government was represented by Assistant United States Attorney George Jacobs. The Defendant, Mr. Kellen Paul Ward, was present and represented by Julian St. Marie, retained counsel. This Order is entered to memorialize the oral rulings of the Court.

On July 22, 2005, the jury in the above-captioned case sent a note to the Court, indicating that they were unable to reach a unanimous verdict. (Ct. Rec. 82). Following receipt of the note, the Court examined the jury, in the presence of counsel, and the Defendant, and found the jury was hopelessly deadlocked. Accordingly, the Court declared a mistrial and discharged the jury on July 22, 2005. Therefore,

IT IS HEREBY ORDERED:

1 1. The Court declares a **MISTRIAL** on All Counts of the Indictment,
2 (Ct. Rec. 1).

3 2. Defendant's new speedy trial interval on all counts of the
4 Indictment shall begin with the entry of this Order memorializing the
5 oral ruling of the Court. See 18 U.S.C. § 3161(e) (stating trial to
6 "commence within seventy days from the date the action occasioning the
7 retrial becomes final"); *United States v. Crooks*, 804 F.2d 1441 (9th Cir.
8 1986) (holding under 18 U.S.C. § 3161(e) that "district court's order,
9 not the dismissal of the jury, constituted the action occasioning the new
10 trial"); *United States v. Gaffney*, 689 F. Supp. 1578 (M.D. Fla. 1988)
11 (citing *Crooks*, 804 F.2d 1441, for proposition that seventy days under
12 18 U.S.C. § 3161(e) after declaration of mistrial begins with "the order
13 setting the case for retrial constitutes the action occasioning the new
14 trial").

15 4. A Pretrial Conference shall be held at **9:00 a.m. on September**
16 **1, 2005**, in **Spokane**, Washington. The parties shall file and serve any
17 other pretrial motions on or before **August 11, 2005**.

18 5. If different than previous submissions, trial briefs, requested
19 voir dire and proposed joint jury instructions shall be filed and served
20 on or before **September 16, 2005**. Jury Instructions should only address
21 issues that are unique to this case, and shall include instructions
22 regarding the elements of each claim or defense, relief and a proposed
23 verdict form.

24 6. The jury trial shall commence at **9:00 a.m. on September 26,**
25 **2005**, in **Spokane**, Washington. **Counsel and the Defendant shall meet with**
26 **the Court in Chambers at 8:30 a.m. on the day of trial.**

1 **IT IS SO ORDERED.** The District Court Executive is directed to enter
2 this order and to provide copies to all counsel, the U.S. Marshall, the
3 U.S. Probation Officer, and the Jury Administrator.

4 **DATED** this 27th day of July, 2005.

5
6 S/ Edward F. Shea

 EDWARD F. SHEA
7 United States District Judge

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